



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 31 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chuck Long
Operations Manager
Consolidated Grain and Barge Company
5130 Port Road
Jeffersonville, Indiana 47130

Dear Mr. Long:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Consolidated Grain and Barge Company (you or CGB) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you violated the Indiana State Implementation Plan at its Jeffersonville, Indiana facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil action.

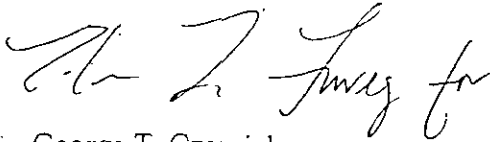
We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Katharina Bellairs. You may call her at (312) 353-1669 if you wish to request a conference. CGB should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

EPA hopes that this NOV will encourage CGB's compliance with the requirements of the Clean Air Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "G. T. Czerniak".

George T. Czerniak
Director
Air and Radiation Division

cc: Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management

Enclosures: Notice of Violation EPA-5-15-IN-04

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Consolidated Grain and Barge Company

Jeffersonville, Indiana

Proceedings Pursuant to
Section 113(a)(1) and (3) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(1) and (3)

)
)
) **NOTICE AND FINDING OF
VIOLATION**

) **EPA-5-15-IN-04**
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NOTICE OF VIOLATION

The U.S. Environmental Protection Agency issues this Notice of Violation (NOV) to Consolidated Grain and Barge Company (CGB) to notify it of violations of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (the Act), and the Indiana State Implementation Plan (SIP) at its grain elevator facility located at 5130 Port Road, Jeffersonville, Indiana. Specifically, EPA finds that CGB has exceeded, since at least December 2013, the federally enforceable 12-month rolling total throughput limitations in its Construction Permit as incorporated into the Federally Enforceable Permit to Operate (FESOP) for its grain dryer and its barge loadout operations. The relevant statutory and regulatory background, factual background, notice of violations, and environmental impact of these violations are set forth in detail below.

EPA issues this NOV pursuant to Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), which authorizes the Administrator of EPA (Administrator) to take certain enforcement actions after notifying a person that it is in violation of the Act. The authority to issue this NOV has been delegated by the Administrator to the Regional Administrator of EPA, Region 5, and re-delegated to EPA's Director of the Air and Radiation Division for Region 5.

STATUTORY AND REGULATORY BACKGROUND

Clean Air Act

1. The Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. See Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

Indiana Federally Enforceable State Operating Permit Requirements

2. Title V of the Act, 42 U.S.C. §§ 7661-7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including "major sources" of air pollution. The purpose of Title V is to ensure that all applicable requirements, including PSD requirements, are included in the Title V operating permit for the source.
3. A "major source" is defined in part, as any stationary source that emits, or has the potential to emit, 100 tons per year (tpy) of any regulated pollutant. *See* Section 501(2)(B) of the Act, 42 U.S.C. § 7661, 40 C.F.R. § 70.2, and the Indiana SIP at 326 IAC 2-7-1(22).
4. A "major source" is required to have a Part 70 operating permit. *See* 40 C.F.R. § 70.3, and the Indiana SIP at 326 IAC 2-7-2(a).
5. No source subject to Part 70 requirements may operate after the time that it is required to submit a timely and complete application except in compliance with a duly issued Part 70 permit. *See* 40 C.F.R. § 70.7(b), and the Indiana SIP at 326 IAC 2-7-3.
6. On June 28, 1989, EPA issued guidance on FESOPs establishing federally enforceable limits in facilities' permits. *See* 54 *Fed. Reg.* 27274. Pursuant to EPA's FESOP guidance, approved state FESOP programs could allow a "major source" to legally avoid obtaining a Part 70 permit by applying for the issuance of a FESOP which limits its potential to emit below the applicability standard of Part 70.
7. On August 18, 1995, EPA approved Indiana's FESOP Program as part of the federally enforceable Indiana SIP. *See* 60 *Fed. Reg.* 43008. Indiana's FESOP Program is codified at IAC 326 2-8-1 through 2-8-17, and set forth in the Indiana SIP at 326 IAC 2-8-1 through 2-8-17.
8. Indiana's FESOP Program is a mechanism for establishing FESOPs to create federally enforceable limitations on a facility's potential to emit certain regulated pollutants. *See* 60 *Fed. Reg.* 43008, and the Indiana SIP at 326 IAC 2-8-1 through 2-8-17.
9. All terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable under the Act by EPA and citizens. *See* the Indiana SIP at 326 IAC 2-8-6(b).

Enforcement Authority

10. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the applicable SIP, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

11. Pursuant to 40 C.F.R. § 52.23, any person failing to comply with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the SIP, is a violation of the SIP and subject to an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

FACTUAL BACKGROUND

CGB's Facility

12. CGB is a subsidiary of CGB Enterprises, Inc., a corporation headquartered in New Orleans, Louisiana.
13. CGB is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
14. At all times relevant to this Notice, CGB owned and operated a grain elevator located at 5130 Port Road, Jeffersonville, Indiana (Facility).
15. The Facility is located in Jeffersonville Township in Clark County, Indiana, thus making the Facility a source listed in the Indiana SIP at 326 IAC 5-1 [Ind. Admin. Code tit. 326, r. 5-1-1(c)].
16. From 2005 to present, Clark County was designated as a non-attainment area for the 1997 PM_{2.5} standard. *See* 76 *Fed. Reg.* 12860 (March 9, 2011) and 40 C.F.R. § 81.336.
17. The Facility has the potential to emit more than 250 tons per year (tpy) of PM.
18. The Facility is a "major emitting facility" within the meaning of Section 169(1) of the CAA, 42 U.S.C. § 7479(1), and is a "major stationary source" within the meaning of 40 C.F.R. § 52.21(b)(1)(i)(a).
19. On August 30, 2012, IDEM issued FESOP No. F019-21478-00001 (CGB's FESOP) to CGB for the Facility.
20. On August 30, 2012, IDEM issued the sixth administrative amendment, FESOP No. 019-31938-00001, to CGB's FESOP.
21. Pursuant to IAC 2-8-4 and in order to render the PSD requirements of 326 IAC 2-2 not applicable to the Facility, Section D.1.1(b) of CGB's FESOP requires that CGB comply with 12-month throughput limits on the total throughput of grain, grain by-products, and gluten (collectively "Grain Throughput") processed by specified processes at the Facility (the 12-month Rolling Throughput Limits).
22. The 12-month Rolling Throughput Limit for the grain dryer at the Facility is 116,000 tpy. *See* Section D.1.1(b) of CGB's FESOP.

23. The 12-month Rolling Throughput Limit for the barge loadout at the Facility is 1,160,000 tpy. *See* Section D.1.1(b) of CGB's FESOP.
24. CGB's compliance with the 12-month Rolling Throughput Limits set forth in Section D.1.1(b) of CGB's FESOP is determined at the end of each month based on the prior twelve consecutive month time period.
25. On January 31, 2013, April 9, 2014, July 7, 2014, and October 7, 2014, CGB submitted FESOP Certification quarterly reports to IDEM (FESOP Certification Quarterly Reports), as required by CGB's FESOP.
26. The FESOP Certification Quarterly Reports showed that CGB's 12-month rolling total Grain Throughput at its grain dryer for each month from December 2013 to September 2014 was the amounts set forth in Table 1 below.
27. The FESOP Certification Quarterly Reports showed that CGB's 12-month rolling total Grain Throughput at its barge loadout operation for each month from December 2013 to September 2014 was the amounts set forth in Table 1 below.

Table 1	Dryer	Barge Loadout
Month/Year	12-Month Rolling Total Throughput	12-Month Rolling Total Throughput
Dec-13	145,073	578,911
Jan-14	161,663	829,969
Feb-14	160,465	877,953
Mar-14	160,465	1,013,062
Apr-14	160,465	1,126,770
May-14	160,465	1,170,468
Jun-14	161,766	1,207,734
Jul-14	164,314	1,264,997
Aug-14	163,560	1,321,814
Sep-14	163,146	1,327,452
12-Month Rolling Throughput Limit	116,000	1,160,000

Violations

28. From December 2013 to September 2014, CGB violated the Indiana SIP at 326 IAC 2-8-4, 326 IAC 2-2, 326 IAC 2-3, and the Facility's FESOP, by processing grain at its grain dryer during the prior 12-month period at a rate exceeding the 12-month Rolling Throughput Limit for the grain dryer set forth in CGB's FESOP at D.1.1(b).
29. From May 2014 to September 2014, CGB violated the Indiana SIP at 326 IAC 2-8-4, 326 IAC 2-2, 326 IAC 2-3, and the Facility's FESOP, by processing grain at its barge loadout

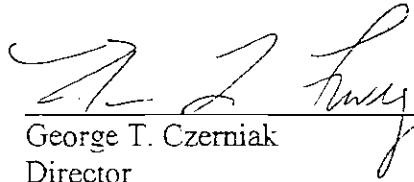
operations during the prior 12-month period at a rate exceeding the 12-month Rolling Throughput Limit for the barge loadout operations set forth in CGB's FESOP at D.1.1(b).

Environmental Impact of Violations

30. Violation of opacity standards, grain elevator equipment maintenance requirements, and baghouse pressure drop response requirements increases public exposure to unhealthy particulate matter. Particulate matter, especially fine particulates, contain microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. Particulate matter exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

3/31/15
Date


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

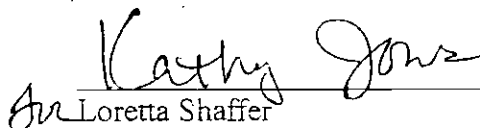
I, Loretta Shaffer, certify that I sent a Notice of Violation, EPA-5-15-IN-04, by Certified Mail, Return Receipt Requested, to:

Chuck Long
Operations Manager
Consolidated Grain and Barge Company
5130 Port Road
Jeffersonville, Indiana 47130

I also certify that I sent a copy of the Notice of Violation, EPA-5-15-IN-04, by First Class Mail to:

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue, room IOCN 1003
Indianapolis, Indiana 46206-6015

on the 31st day of March 2015.



Loretta Shaffer
Program Technician
AECAB, PAS Section

CERTIFIED MAIL RECEIPT NUMBER: 7014 2870 0001 9580 5265